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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/446,550	12/22/1999	OLAF ERIK ALEXANDER ISELE	CM-1519Q	2485

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/446,550

Applicant(s)

ISELE ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 15-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: _____

DETAILED ACTION***Election/Restrictions***

Applicant's election with traverse of claims 1-14 in Paper No. 7 is acknowledged. The traversal is on the grounds that the layers of the two-layer backsheet have different levels of breathability in order to impart zones of differing breathability to the same two-layer backsheet material. This is not found persuasive because the process of claim 15, for the manufacture of a laminate comprising zones of differing breathability, is not specially adapted for the manufacture of the product of claim 1, a diaper. Further, the process of claim 15 and the product of claim 1 share the special technical feature of differing zones of breathability. This special technical feature is known to one skilled in the art, and is therefore not a contribution over the prior art. The process of claim 15 and the product of claim 1 therefore lack unity.

The requirement is still deemed proper and it therefore made **FINAL**.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said at least one polymeric film layer" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "said matrix" in line 15. There is insufficient antecedent basis for this limitation in the claim.

Claims 1 and 2 recite the limitation "said polymeric film layer". There is insufficient antecedent basis for this limitation in the claim.

Claims 8, 11, 12, and 13 recite the limitation "the polymeric layer". There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "said film" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dobrin et al. (5,628,737) in view of Soga et al. (5,364,381).

Dobrin discloses all aspects of the claimed invention with the exception of a particulate filler material imbedded in the polymeric film layer. Dobrin discloses an absorbent article 20, as shown in figure 2, comprising a core region 74, and a chassis region 76 surrounding the core region 74. The article 20 further comprises a laminate 95, as shown in figure 3, which extends into both the core region 74 and the chassis region 76 to form a core backsheet and a chassis backsheet. The laminate 95 comprises a polymeric film layer 26, as described in column 6, lines 42-43, and a

fibrous layer 90, as described in column 9, lines 51-52. The laminate 95 is a breathable, unitary layer. The laminate 95 comprises apertures 84 in the chassis region 76, giving the chassis region 76 a higher degree of breathability than the core region 74.

Soga discloses a polymeric film material 1, as shown in figure 1, for use as the backsheet of an absorbent article, as described in column 1, lines 8-11. Soga discloses adding an inorganic filler to the polymeric film material. The addition of the filler to the polymeric film material increases the air permeability of the film, but the film remains impermeable to liquid, as described in column 1, lines 54-64.

Dobrin discloses a polymeric film material for use as the backsheet of an absorbent article, and further discloses the polymeric film material should be air permeable, as described in column 6, lines 41-42. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the polymeric film material of Dobrin with the particulate filler material of Soga to increase the air permeability of the film.

With respect to claim 2, the polymeric film layer 26 is wider than the fibrous layer 90, as described in column 10, lines 7-9.

With respect to claims 3 and 4, Dobrin discloses all aspects of the claimed invention but remains silent as to the MVTR of the core backsheet material. Vapor Transmission Rates of materials deemed breathable are well-known in the art to be greater than 1500 g/24hrs/m². It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct a backsheet intended to be breathable of a material having a MVTR of greater than 1500 g/24hrs/m².

With respect to claims 5 and 6, Dobrin discloses all aspects of the claimed invention but remains silent as to how much greater the transmission rate of the chassis region is than the transmission rate of the core region. The chassis region is apertured to increase its breathability, and therefore has a higher transmission rate than the core region.

With respect to claim 7, Soga discloses the filler material comprises calcium carbonate, as described in column 3, lines 1-2.

With respect to claims 8-9, Dobrin discloses all aspects of the claimed invention, but remains silent as to the basis weights of the polymeric film layer and the laminate. Dobrin discloses a polymeric film layer 26 that is flexible and breathable, and has a thickness of as little as 0.012 mm, as described in column 6, lines 35-45. The fibrous layer 90 of the laminate 95 is also flexible and breathable, as described in column 9, lines 56-58. It is well-known in the art that lower density materials are more flexible and breathable, and thin, low density materials have low basis weights as well. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the polymeric film layer with a basis weight of less than 50 gsm, and a laminate with a basis weight of less than 70 gsm, so the laminate may be flexible and breathable.

With respect to claim 10, the fibrous layer 90 is a non-woven web, as described in column 9, line 52.

With respect to claims 11-13, Dobrin discloses all aspects of the claimed invention, but remains silent as to the method of joining the fibrous layer and the

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polymeric film layer to form a laminate. Heat or melt bonding, extrusion coating, and adhesive are all well-known methods for forming a laminate between two layers. It would therefore have been obvious to one of ordinary skill in the art at the time of invention to join the fibrous layer and the polymeric film layer together using heat or melt bonding, extrusion coating, or adhesive, to form a laminate.

With respect to claim 14, Dobrin discloses a baby diaper, as shown in figure 1.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 5,865,823 discloses, in column 6, lines 13-17, the term 'breathable' as referring to a material having a MVTR of at least 1500 g/24hrs/m².

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, Primary Examiner Dennis Ruhl can be reached on (703) 308-2262. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Application/Control Number: 09/446,550

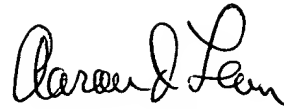
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CWA

cla

May 30, 2002

A handwritten signature in black ink, appearing to read "Aaron J. Lewis". The signature is fluid and cursive, with the first name "Aaron" and last name "Lewis" clearly distinguishable.

Aaron J. Lewis
Primary Examiner